IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 15394 of 2007(G)

PETITIONER:

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1. RAVEENDRA KURUP,AGED 46,
   S/O.K.M.RAGHAVA KURUP,
   THEKKEVELIYIL HOUSE,
   KANICHUKULANGARA P.O.,
   CHERTHALA.

2. P.UNNIKRISHNAN NAIR,AGED 52,
   S/O.PRABHAKARAN NAIR,
   ANJILIPARAMBIL HOUSE,
   PUNNAPRA P.O.,ALAPPUZHA.

3. P.T.LISSY,W/O.SIMON BABY,
   AGED 55,NEDUMPARAMBIL HOUSE,
   PUNNAPRA P.O.,ALAPPUZHA.

4. UMMERKUTTY.P.,AGED 54,
   S/O.PAREEDKUTTY,
   KIZHAKKETHAYYIL HOUSE,
   PUNNAPRA,ALAPPUZHA.

5. RAVEENDRANATH,AGED 55,
   S/O.KRISHNA PILLAI,
   KARIPPAL VELIKKAKATHU HOUSE,
   PUNNAPRA,ALAPPUZHA.

6. N.SUDHAKARAN,AGED 55,
   S/O.R.NANU,KALLOORKARAYI MAYIL HOUSE,
   PUTHIYOOR WEST,KARIYILAKULANGARA P.O.

BY ADV. SRI.T.M.KOCHUNNI

RESPONDENTS:

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1. STATE OF KERALA,
   REP.BY ITS SECRETARY,
   DAIRY DEVELOPMENT,
   SECRETARIAT,THIRUVANANTHAPURAM.

2. THE MANAGING DIRECTOR,
   K.C.M.M.F.LTD.,MILMA,
   MILMA BHAVAN,PATTOM,
   THIRUVANANTHAPURAM.

3. THE MANAGER,CENTRAL PRODUCTS DAIRY,
K.C.M.M.F.,PUNNAPRA, ALAPPUZHA.

4. JOINT DIRECTOR,DIVISIONAL OFFICE,
EMPLOYEES' STATE INSURANCE CORPORATION,
KURUMBELIL AVENUE,POLAYATHODE,
KOLLAM-21.

BY ADV. SRI.B.S.KRISHNAN(SR.), SC, MILMA
SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.15394 OF 2007

DATED THIS THE 31st DAY OF MAY, 2007

JUDGMENT

The petitioners are employees of the KCMMF Limited (popularly known as 'Milma'). They have filed this writ petition seeking the following reliefs.

> i. issue a writ of mandamus or any other writ or order direction to the respondents to call for the records relating to Exts.P1 to p4;
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> ii. To issue a writ of mandamus or any other writ, order or direction, directing the 2nd respondent to consider and pass orders on Ext.P4 representation filed by the petitioners, within a time limit;
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> iii. Issue a writ of mandamus or any other appropriate order or direction, directing the respondent 2 & 3 to revise the wages of the petitioners based on Ext.P1 settlement;
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> iv. To issue a writ of mandamus or any other appropriate writ order or direction, commanding the 2nd and 3rd respondents not to deduct the contribution of E.S.I. From the wages of the petitioners;
>
> v. pass any other appropriate orders as this Hon'ble court may deem fit and proper; and
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> vi. To award the cost of this petition."

2. The contention of the petitioners is that the present long term settlement is expiring on 30.6.07 and thereafter wages of the petitioners are likely to be revised. When the long term settlement is

signed there is likelihood of the salary of the petitioners going beyond the limit prescribed under the Employees State Insurance Act in which case the petitioners may not be liable to pay contributions under the E.S.I. Act, is the contention raised by the petitioners.

3. Admittedly, the next long term settlement has not arrived yet. It is also not certain that even if a wage revision is granted by the next long term settlement, the petitioners' salary would be enhanced beyond the limit prescribed under the E.S.I. Act. In any event, the authorities under the E.S.I. Act have to decide the liability as it stands and cannot decide on the basis of probabilities that may arise in future. Therefore, I do not find any merit in this writ petition and accordingly, the same is dismissed.

S. SIRI JAGAN, JUDGE

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